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BEFORE THE MEDICAL EXAMINING BOARD

| | | |
|-----------------------------------|---|--------------|
| IN THE MATTER OF THE DISCIPLINARY | : | |
| PROCEEDINGS AGAINST | : | |
| | : | LS0110181MED |
| ARKAN I. ALRASHID, M.D., | : | |
| RESPONDENT. | : | |

FINAL DECISION AND ORDER

The parties to this action for the purposes of § 227.53, Stats., are:

Arkan I. Alrashid, M.D.
1995 Wilshire Court
Buffalo Grove, IL 60089

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Medical Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Arkan I. Alrashid, M.D., Respondent, date of birth December 30, 1965, was licensed by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin pursuant to license number 37883, which was first granted July 26, 1996.

2. Respondent did not renew the registration of his license to practice medicine and surgery in the state of Wisconsin when it expired October 31, 2001.

3. Respondent's last address reported to the Department of Regulation and Licensing is 1995 Wilshire Court, Buffalo Grove, IL 60089.

4. Respondent's practice specialty is internal medicine, with a subspecialty in gastroenterology.

5. From approximately 1997 until his contract was terminated on October 26, 2000, Respondent was employed by Divine Savior Hospital (DSH), in Portage, Wisconsin, as an emergency room physician. Respondent worked at DSH on weekends. He lived in the Chicago area where he practiced during the week.

6. Ms. A, an unmarried 21-year-old woman, was also an employee at DSH. On July 3, 2000, while Ms. A was working the 3 p.m. to 11 p.m. shift:

Ms. A felt feverish and had frequency of urination, some back pain and vaginal spotting.

She thought the physical symptoms might be caused by an infection;

She wanted privacy but was concerned whether seeing a doctor where she worked would be private.

Two of her trusted coworkers suggested that Ms. A could be seen by a physician in the ER at the end of her shift without other ER employees finding out.

7. At 11:19 p.m., following the end of her shift, Ms. A was registered for admission in the ER. The nurse, with whom Ms. A had confided, noted her complaints as: "feels weak shaky – small amount vaginal bleeding, back pain for two days." The nurse noted possible diagnoses as vaginitis or a urinary tract infection.

8. The nurse took Ms. A's history and vital signs and Ms. A was seen by Respondent. Because they both were employed at the hospital, Ms. A and Respondent knew each other, but had no significant conversations prior to this visit.

9. Respondent began to examine Ms. A, who was depressed and crying. For approximately 20 minutes,

Respondent sat next to Ms. A, held her hand and discussed with Ms. A her history and her reason for coming to the ER. Ms. A also disclosed to Respondent that she was taking Prozac for depression.

10. Respondent performed a general physical exam of Ms. A, including a pelvic exam. Respondent diagnosed urinary tract infection and wrote discharge instructions. The case nurse confirmed that Respondent performed the examination in accordance with proper medical standards.

11. Respondent told Ms. A that he did not want her driving until she felt better and suggested she wait in the doctors' lounge. Ms. A says that she agreed to rest in the doctors' lounge because she was drowsy.

12. Respondent took Ms. A to the doctors' lounge which was just outside of the ER. Once they were alone in the lounge, Respondent began kissing Ms. A and had sexual contact with her. Ms. A asserts that based on Respondent's statements, she believed that unless she did what Respondent asked her to do sexually, he would breach her confidentiality.

13. Respondent had sexual contact with Ms. A on several more occasions through early August 2000. Ms. A reported Respondent's conduct to DSH, at the urging of the psychologist she was seeing for her depression.

14. Respondent has not practiced medicine in Wisconsin since October 2000.

15. At the suggestion of the Division of Enforcement, on August 28-30, 2002, Respondent completed "Maintaining Proper Patient Boundaries" at Vanderbilt University Medical Center for which he received 21 hours of Category 1 CME credit.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to § 448.02(3), Stats.

2. The Wisconsin Medical Examining Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5) and 448.02(5), Stats.

3. Respondent, by engaging in the conduct with Ms. A as set out above, has violated Wis. Admin. Code § MED 10.02(2)(h) and is subject to discipline pursuant to § 448.02(3), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license, and right to renew the license, of Arkan I. Alrashid, M.D., to practice medicine and surgery in the state of Wisconsin is hereby SUSPENDED for a minimum of one (1) year, effective immediately.

2. Respondent shall, within 60 days of the date of this Order, pay \$20,000 to the Department of Regulation and Licensing, which represents most of the costs of this proceeding.

3. The suspension of Respondent's license shall end after the one year period, upon Respondent providing proof sufficient to the Board that:

a. Respondent has taken and completed an approved educational program addressing appropriateness of boundaries between health care professionals and their patients or clients. Respondent shall provide information about the program to the Board, or its designee, and receive approval from the Board, or its designee, that the program meets the requirement of this paragraph.

b. Respondent, by completing the program described in Finding of Fact 16, has satisfied the educational requirement set out in the preceding subparagraph.

c. Respondent has, at his own expense, undergone an assessment by a mental health care practitioner or practitioners with experience in assessing health care practitioners who have become involved sexually with patients.

i. The practitioner or practitioners performing the assessment must have been approved by the Board or its designee, with an opportunity for the Division of Enforcement to make its recommendation, prior to the assessment being performed. The Board's approval of said practitioner shall not be unreasonably withheld.

ii. The Division of Enforcement shall provide the assessor(s) and Respondent with those portions of the investigative file which the Division believes may be of assistance in performing the assessment. Respondent may provide the assessor(s) with any information Respondent believes will be of assistance in performing the assessment.

iii. Respondent shall authorize the assessor(s) to provide the Board, or its designee, with the assessment report and all materials used in performing the assessment and shall provide the Board, or its designee, and the Division with the opportunity to discuss the assessment and findings with the assessor(s).

d. The assessor(s) rendered opinions to a reasonable degree of professional certainty that Respondent can practice with reasonable skill and safety to patients and public.

4. If Respondent has complied with the requirements for the termination of the suspension, the Board may limit Respondent's license in any manner necessary to address issues raised by the facts of this case or by the assessment, including, but not limited to:

a. Psychotherapy, at Respondent's expense, by a therapist approved by the Board, to address specific treatment goals, with periodic reports to the Board by the therapist.

b. Additional professional education in any identified areas of deficiency.

5. If Respondent believes that any refusal to end the suspension or that any limitation imposed by the Board is inappropriate, Respondent may seek a class 1 hearing pursuant to § 227.01(3)(a), Stats., in which the burden shall be on Respondent to show that the Board's decision is arbitrary or capricious. The suspension or limitations on Respondent's license shall remain in effect until there is a final decision in Respondent's favor on the issue.

6. Any request for approval of educational programs or assessors and evidence of compliance with the requirements to terminate the suspension shall be mailed, faxed or delivered to:

Department Monitor

Department of Regulation and Licensing

Division of Enforcement

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708-8935

Fax: (608) 266-2264

7. Violation of any term or condition of this Order, or of any limitation imposed under paragraph 4 above, may constitute grounds for revocation of Respondent's license as a physician in Wisconsin. Should the Board determine that there is probable cause to believe that Respondent has violated the terms of this Order, or any limitation imposed under paragraph 4 above, the Board may order that Respondent's license be summarily suspended pending investigation of and hearing on the alleged violation.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin this 19th day of February, 2003.

Alfred L. Franger, M.D.

Secretary

Medical Examining Board